



FmHA AN No. 2990 (1951-S)
March 25, 1994

SUBJECT: Income Eligibility Determination for
Homestead Protection Applicants who are
Entity Members

TO: State Directors, District Directors and
County Supervisors

ATTN: Farmer Programs Chiefs

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance concerning income eligibility determinations for Homestead Protection applicants who were members of a corporation, partnership or cooperative, when the entity was the principle borrower for direct Farmer Programs loan(s). The intended outcome is to insure that gross income from the entity is properly considered when determining the applicant's eligibility for Homestead Protection.

IMPLEMENTATION RESPONSIBILITIES:

Section 1951.911(b)(3) of FmHA Instruction 1951-S sets forth the eligibility requirements for Homestead Protection. Two of these requirements concern the source of an applicant's income. In order to be eligible for Homestead Protection, in any two of the six calendar years preceding an application for Homestead Protection, the applicant and any spouse must have:

1. Received gross farm income reasonably commensurate with the size and location of the farm or ranch and with local agricultural conditions.
2. Received at least 60 percent of their gross annual income from farming or ranching operations.

EXPIRATION DATE: March 31, 1995

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1951-S



When considering homestead protection applications from applicants who were members of a corporation, partnership, or cooperative, the gross farm income eligibility decision will be based upon the applicants' ownership share of the entity's gross farm income. If there is a partnership, the Partnership Agreement will have to be reviewed in all cases to determine income distribution. This figure will then be added to the applicants' nonfarm income to determine if the applicants received at least 60 percent of their gross annual income from farming or ranching operations.

Example:

Mr. and Mrs. Farmer farm with their children through a family corporation. Mr. and Mrs. Farmer own 50 percent of the corporation and have applied for homestead protection.

Below is a summary of the corporation's income statements for 2 of the 6 calendar years preceding the homestead protection application:

	<u>Year 3</u>	<u>Year 6</u>
Gross Farm Income	\$100,000	\$100,000
Farm Expenses	\$120,000	\$120,000
Net Farm Income	(\$20,000)	(\$20,000)
Dividends Issued	0	0

The corporation's gross farm income during the years shown above was reasonably commensurate with the size and location of the farm and with local agricultural conditions. Mr. and Mrs. Farmer did not receive any income from the farming corporation. In order to meet family living expenses, they obtained off-farm income of \$20,000 per year.

Although Mr. and Mrs. Farmer did not receive any income from the farming corporation, they meet the gross farm income eligibility requirement for homestead protection because their share of the corporation's gross farm income, i.e. 50 percent or \$50,000 or each year involved, was reasonably commensurate with the farm's size, location and with local agricultural conditions.

Mr. and Mrs. Farmer also meet the 60 percent gross annual income requirement. Mr. and Mrs. Farmer's share of the corporation's gross farm income was \$50,000 (50 percent x \$100,000). When added to their nonfarm income, their total gross annual income was \$70,000. Mr. and Mrs. Farmer's gross annual income from the farming operation for the years in question was 71 percent. This exceeds the minimum requirement of 60 percent set forth in the regulations.

ANY REVISIONS OR MODIFICATIONS TO THIS AN THAT YOU WISH TO PUBLISH AS A STATE DIRECTIVE MUST BE SUBMITTED AND APPROVED BY THE ASSISTANT ADMINISTRATOR OF FARMER PROGRAMS BEFORE IT IS RELEASED FOR IMPLEMENTATION IN YOUR STATE. THE ONLY EXCEPTION TO THIS REQUIREMENT IS WHEN THE REVISION OR MODIFICATION IS NECESSARY FOR COMPLIANCE WITH STATE LAW.

If you have any questions regarding this AN, contact Bruce K. Mair, Farmer Programs Loan Servicing and Property Management Division, at (202) 690-4009.



MICHAEL V. DUNN
Administrator

Sent by electronic mail on 3-29-94 at 2:46 by GSS. State Directors should inform other personnel as appropriate.